IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

Bail Appl..No. 7055 of 2006()

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CRMP.9469/2006 of J.M.F.C.-I, PUNALUR

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PETITIONER/ACCUSED NO.2

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VINCY VARGHESE, S/O.VARGHESE,
MATTUMMEL HOUSE, THRIKKAKARA, ERNAKULAM DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT:

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STATE OF KERALA THROUGH
THE DEPUTY SUPERINTENDENT OF POLICE,
C.B.C.I.D., ALAPPUZHA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 01/12/2006, ALONG WITH BA NO. 7058 OF 2006 THE COURT ON 05/12/2006 PASSED THE FOLLOWING:

**V. RAMKUMAR, J.**

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**B.A. Nos. 7055/2006 & 7058**

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**Dated, this the 5th day of December 2006**

**ORDER**

The common petitioner in this petition filed under Sec. 439 Cr.P.C. is the 2nd accused in Crime Nos. 208/CR/KLN/2000 of the C.B.C.I.D., Alappuzha and 209/CR/KLM/OO of the C.B.C.I.D., Alappuzha for offences punishable under Sec. 55(a) of the Abkari Act and Sec.120 B, 468 and 201 I.P.C., seeks bail. The petitioners were arrested on 13-11-2006.

2. The learned Public Prosecutor opposed the application. He made available to me the case diary files relating the matter.

3. On 3-6-1999 24,000 liters of rectified spirit loaded in two tanker lorries bearing Reg. Nos. KL-7/H-3672 and KL-7/H-3674 from Dharani Sugars Vasudevanalloor - Thirunelveli District were being taken to Kasarval Spring Distillery, Goa with proper records. The route of transportation mentioned in the permit issued by the Distillery Officer (Deputy Collector) - Dharani Sugars was Dharani Nagar - Thenkasi-Aryankavu-Kollam-Ernakulam (NH 47) - Manajeswaram-Mangalore-Polem in Goa. The above tanker lorries entered Kerala check post at Aryankavu by about 7 p.m. on 3-6-99. After verifying

the records the necessary transit pass was issued by the Sales-tax authorities and the above tanker lorries proceeded to Goa. But the above spirit did not reach Goa. Investigation thus far conducted has revealed that the spirit was illegally sold at Ernakulam and false records were made in the Distillery at Goa showing that the spirit lorries reached there and it was unloaded at the destination namely Spring Distillery, Goa. The tanker lorries had been escorted by a police constable by name Murukayya (LNK 1031) of Armed Reserve Camp, PalayamKottai from Thirunelveli. The said constable had escorted the lorries till Aryankavu check post. His passport, however, showed that he had reported at the Distillery at Goa at 4 p.m. on 6-6-1999 and he was re-passported from Goa at 2 p.m. on 7-6-1999. Forensic tests of the passport revealed that the signatures and seals found in the said passport were forged. Further investigation revealed that the constable who was deputed to escort the spirit lorry till Goa did not escort the lorries till the destination but instead he had conspired with the other accused persons for disposing of the spirit at Ernakulam. The spirit was actually unloaded at Thottakkattukara Distillery, Alwaye of which the petitioner is one of the Directors.

4. It is too early to conclude that the petitioner had no role in

the illegal diversion of the spirit lorries to Thottakkattukara Distillery and the clandestine sale of the spirit. I am not satisfied that both the grounds enumerated under Sec. 41- A (b) (ii) of the Abkari Act are present in this case so as to justify the release of the petitioner on bail.

This bail application is accordingly, dismissed.

**V. RAMKUMAR,**
**(JUDGE)**

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